

# **REGISTRAR'S SUBMISSION PACKAGE**

## **BOARD OF PSYCHOLOGY**

### **18 VAC 125-20-10 et seq.; Regulations Governing the Practice of Psychology**

#### **Analysis of Proposed Amendments to Regulation**

##### **1. Basis of Regulation:**

Chapter 24 of Title 54.1 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary and the authority to levy and collect fees that are sufficient to cover all expenses for the administration of a regulatory program.

##### **2. Statement of Purpose:**

The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Psychology. Without adequate funding, the licensing of clinical, applied and school psychologists could be delayed. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the Board in order to protect the public health, safety and welfare.

##### **3. Substance of Regulations:**

#### **Regulations Governing the Practice of Psychology**

##### **18 VAC 125-20-30. Fees required by the Board.**

Fees are amended as follows:

- A decrease is proposed in the fee for registering a residency from the current \$100 to \$50. This is based on the administrative cost of processing the paperwork and having the Board review the documentation.
- Because there is less administrative work involved to process and review a request to add change a residency supervisor, the Board proposes a \$25 for this process, which is ½ the cost of the original registration.

- The proposal establishes a new application processing and initial licensure fee of \$200 to cover the licensure fee for ½ of a renewal period, which is the average initial licensure period for new licensees, and a \$10 fee for a wall certificate.
- A renewal fee increase is proposed from the current \$200 biennial renewal to a \$225 renewal. The proposed renewal fee reflects the cost of the administrative and disciplinary activities of the Board and the allocated costs of the Department.
- An increase in the late renewal fee from \$10 to \$80 is proposed to establish a fee that is 35% of the renewal fee in accordance with the agency's *Principles for Fee Development*.
- An increase in the cost for verification of licensure to another jurisdiction from \$10 to \$25 is proposed to cover the administrative costs of retrieving and copying a file from the microfilm archive, and the mailing costs of the file.
- The current regulation establishes the same fee for a replacement license or wall certificate. Since the cost for producing and sending a duplicate license has been reduced, the proposal establishes a separate fee of \$5 to reflect the actual cost of processing a duplicate license.
- The proposed returned check fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the Department.
- A new fee of \$270 is proposed for reinstatement of a license that has lapsed beyond one full renewal period. This fee is based on the cost of Board review of the reinstatement application plus ½ of the annual renewal fee to cover the average time remaining in a renewal period, plus the penalty fee for late renewal.
- A new fee of \$500 is proposed for reinstatement of a license that has been revoked or suspended following disciplinary action. This fee is based on the cost of the review of the background investigation and reinstatement application, and the cost of holding an informal conference to consider the reinstatement.
- A change is proposed for the payment instruction to clarify that some licensure processes are performed by a vendor, requiring payment of the fee to the vendor and not the Board, as set forth in the application instructions.

**18 VAC 125-20-130. Late renewal; reinstatement.**

Amendments are proposed to reference the reinstatement application process and the reinstatement fee, which replaces the re-review fee in the current regulations. The reinstatement fee is established based on the administrative and review costs which are the

same as that determined for initial licensure, plus a late renewal fee. This is in conformance with the *Principles for Fee Development* for all boards within the Department.

#### **4. Issues of the Regulations**

An analysis of revenues and expenditures conducted at the end of the 1996-1998 biennium projected that under the current fee structure, the Board would face a 13% deficit at the end of the 1998-2000 biennium, a 12 % deficit at the close of the 2000-2002 biennium, and a 16% deficit at the close of the 2000-2004 biennium. In order to remain in compliance with §54.1-113 of the Code of Virginia, the Board adopted a proposal for fee increases that will offset the projected deficit through 2004.

In developing the fee proposal, the agency's Finance Office used a new set of principles by which all boards are guided in the development of regulations. *The Principles for Fee Development* are intended to provide structure, consistency, and equity for all professionals regulated within the Department. In consideration of various alternatives and issues surrounding the adoption of fees, the *Principles* served to guide the Board in the development of appropriate and necessary fees.

#### **ISSUE 1. Uniformity in renewal and application fees across professions.**

As is stated in the *Principles*, renewal fees for all occupations regulated by a board should be consistent across occupations unless there is clear evidence to indicate otherwise. Therefore, the Board is proposing the same renewal fee for all three licensure categories based on the cost of administering the disciplinary program for practitioners licensed to practice independently. The increase in the renewal fee is slight, representing a \$25 increase over a biennium. The proposed fee is comparable with the renewal fees recently adopted by the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals for its three independent practice licensure categories. Likewise, the education and experience requirements for the three licensure categories are similar, resulting in a comparable amount of work to process and review applications. The Board is proposing that \$75 of the initial licensure fee be attributed to credentials review based on the cost of staff time, reviewer time, mailing and copying costs, data processing and telephone costs for each applicant. Likewise, the board is proposing a \$50 review fee for initial registrations of residency supervisors and a \$25 fee for subsequent registrations. The same fees have been proposed by the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals based on similar costs for application review.

#### **Advantages and disadvantages to the licensees**

All individuals licensed or certified by the Board of Psychology will experience increased renewal fees under the proposed regulations. In 1996, in spite of a slight deficit, the Board reduced its renewal fees from \$95 annually to \$125 biennially to accomplish the

transition of clinical psychologists from the board of Medicine to the Board of Psychology with minimal disruption (\$125 was the biennial renewal fee assessed by the Board of Medicine). Included with this change was an extension of the renewal deadline without charge for psychologists who were licensed under the Board of Psychology to bring them into the biennial renewal cycle. These changes resulted in deepening the already existing deficit. To offset the deficit, the Board raised the renewal fee to \$200 effective April 1, 1998. Although the projections at the time indicated that the deficit would be corrected through June 30, 2000, current projections indicate that the deficit will be slightly over 10% for the upcoming biennia (13% at the end of the 1998-2000 biennium and 12% at the end of the 2000-2002 biennium) increasing to 16% at the end of the 2002-2004 biennium. Contributing factors to this change include an increase in Board size from seven to nine members in 1996, increases in staff salaries and fringes due to position reallocations and upcoming pay increases, increases in the agency's data processing costs due to implementation of a new database system, increased regulatory activity for the board and a lower number of applicants for the sex offender treatment provider certification than originally projected (10 per year actual vs. 50 per year originally anticipated). The budget projections now require that the renewal fees be increased by \$25 per biennium. This in turn increases the application processing fee because under the new principles, a portion of the fee is allocated for ½ of a renewal period to cover the initial licensure period on average. While that is a disadvantage to the licensees, the alternative of reduced services for the Board would be unacceptable to applicants, licensees and the general public. As a specially funded agency, renewal fees pay the vast majority of the expenses of Board operations, which include investigation of complaints against licensees and certificate holders, adjudication of disciplinary cases, verification of licensure, education and experience to other jurisdictions and entities, and communications with licensees and certificate holders about current practice and regulation.

## **ISSUE 2: Establishment of initial licensure fees.**

For all professions governed by the Board, the initial licensure fee has historically been considered part of the application fee. This allowed for immediate processing of the license following notification of completion of the licensure requirements for an applicant. However, the fee was not developed according to any set formula consistent among boards in the agency. Under the new *Principles for Fee Development*, the initial application fees should include the cost of credentials review, an appropriate portion of the license fees, and cost of the wall certificate.

One method of assessing an initial licensure fee is prorating the fee based on the amount of time remaining in the renewal period. The Board is not proposing prorated fees because other boards in the agency have determined that the additional steps involved (assessing fee, notifying applicant, processing check, notifying applicant again if check is not mailed until the next fee period begins, etc.) result in delays in licensure processing and can create more burden and lost income for the applicant than any benefit from the prorated fees. In the proposed regulations, all applicants for all categories of licensure will be assessed a fee to cover ½ of the renewal period, which is the average initial licensure period.

### **Advantages and disadvantages to the licensees**

As stated above, the advantage of not prorating fees is that the initial license can be issued as soon as the board has determined that the requirements for licensure are satisfied, without having to contact the applicant with the amount due and then waiting for the fee to arrive

#### **ISSUE 3. Establishment of different fees for renewing an expired license versus reinstating a lapsed license.**

Currently, the Board's regulations require back fees and penalty fees for each lapsed renewal period. Under this rule, some individuals have paid close to \$2000 to return to Virginia practice. In conformance with the *Principles for Fee Development*, the Board is proposing a penalty fee assessed at 35% of the renewal fee for licenses which have lapsed one renewal period, and a reinstatement application requirement for individuals whose licenses have lapsed beyond one renewal period. Since a reinstatement application is required for a licensee to reinstate a lapsed license, the proposed reinstatement fee includes ½ of the current renewal fee (for the average time remaining within the renewal period) the late fee, and a credential review fee.

### **Advantages and disadvantages to the licensees**

For all categories of licensure, the penalty fee for late renewal within the first renewal period will increase, which is a disadvantage to licensees. However, the proposal presents an advantage for individuals whose licenses have lapsed more than one renewal period.

Under the current regulations, individuals who have lapsed more than two renewal cycles must pay all back fees and penalty fees to be reinstated. This can result in exorbitant fees for individuals who have been absent from Virginia for many years. The proposal establishes a flat fee for reinstatement that will not increase based on years of absence.

#### **ISSUE 5. Reinstatement after revocation**

Reinstatement of a license which has been suspended or revoked necessitates an additional cost of a hearing before a panel of the Board. The estimated cost of a hearing, including Board member per diems, staff time and associated expenses is approximately \$500. The Board is proposing that individuals whose licenses have been suspended or revoked incur the cost of the reinstatement hearing.

#### **ISSUE 6. Uniformity among boards for setting miscellaneous fees.**

In setting proposed fees for miscellaneous activities of the Board, the *Principles* call for uniformity among boards and regulated entities. The Board is proposing fees for replacement of a duplicate license, duplicate certificate, and processing and collecting on a

bad check based on cost estimates provided by the Deputy Director for Finance of the Department that will be standardized among all boards in the agency.

**Advantages and disadvantages to the licensees**

The advantage of proposed regulations is that all persons licensed or certified by a board under the Department of Health Professions will consistently pay a fee for miscellaneous activities determined by actual costs for that activity. There will not be inconsistent fees for licensees regulated under different boards.

**Advantage or disadvantages to the public**

Fee increases proposed by the Board should have no disadvantage to the consuming public. There would be considerable disadvantages to the public if the Board took no action to address its deficit and increase fees to cover its expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of education programs. Potentially, the most serious consequence would be a reduction in or reprioritization of the investigation of complaints against regulated individuals. In addition, there may be delays in adjudicating cases of violations of the standards of practice, resulting in potential danger to clients who are often emotionally vulnerable to unscrupulous practitioners.

**Advantage or disadvantage to the agency**

Fee increases will bring the Board into compliance with § 54.1-113 which requires that a deficit of more than 10% be corrected by an increase in fees. The increases will insure that the agency can cover the costs for staff, data processing, board meetings, mailing materials and correspondence to applicants and other expenses incurred in the operation of the regulatory program. The proposed increases present are no disadvantages to the agency.

**5. Estimated Fiscal Impact of the Regulations**

**I. Fiscal Impact Prepared by the Agency:**

**Number of entities affected by this regulation:**

The number of regulated entities (as of June 7, 1999) who would be affected by these regulations is:

|                        |      |
|------------------------|------|
| Clinical Psychologists | 1770 |
| Applied Psychologists  | 106  |
| School Psychologists   | 57   |

**Projected cost to the agency:**

The agency will incur some costs (approximately \$1000) for mailings to the Public Participation Guidelines Mailing List, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled.

**Projected costs to the affected entities:**

For most applicants and regulated entities, the costs of acquiring licensure will remain the same. Although the cost for initial licensure will increase by \$50, the cost of registering a supervisor will decrease by \$50. The majority of applicants are new graduates, who must register a supervisor to complete the residency requirement. The proposed fee for subsequent registrations is reduced further, because the processing and review is less time consuming than for the initial registration.

All licensees will pay an additional \$25 per biennium to maintain their licenses.

Licensees who submit their renewal fee late within one renewal period will pay \$70 more in penalty fees than under the current regulations. The proposed reinstatement fee of \$270 can represent a savings of \$235 to \$2000 or more, depending on the amount of time the license has lapsed.

Miscellaneous costs, such as replacement of a duplicate license or wall certificate, verification of a license or transcript, and returned check charges are uniformly proposed at amounts consistent with the actual costs incurred by the Department for those activities.

**Citizen input in development of regulation:**

The Notice of Intended Regulatory Action was published on April 12, 1999 and subsequently sent to approximately 300 persons and organizations on the Public Participation Guidelines Mailing List of the Board. The deadline for comment was May 12, 1999 and there was no comment received.

**Localities affected:**

There are no localities in the Commonwealth affected by these amended regulations.

**II. Fiscal Impact Prepared by the Department of Planning and Budget: (To be attached)**

**III. Agency Response:**

**c. Source of the legal authority to promulgate the contemplated regulation.**

All regulations of the Board are were promulgated under the general authority of Title 54.1 of the Code of Virginia.

**Chapter 24** establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations and levy fees.

*§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:*

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the*

*provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*

9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

The proposed regulation is mandated by § 54.1-113; however the Board must exercise some discretion in the amount and type of fees which will be increased in order to comply with the statute.

**§ 54.1-113. Regulatory boards to adjust fees.**--*Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.*

**d. Letter of assurance from the office of the Attorney General.**

See attached.

**e. Summary of Public Comment received in response to the Notice of Intended Regulatory Action.**

The Notice of Intended Regulatory Action was published on April 12, 1999 and subsequently sent to the Public Participation Guidelines Mailing List of the Board. The deadline for comment was May 12, 1999 and there was no comment received.

**f. Changes to existing regulations.**

- A decrease is proposed in the fee for registering a residency from the current \$100 to \$50. This is based on the administrative cost of processing the paperwork and having the Board review the documentation.
- Because there is less administrative work involved to process and review a request to add change a residency supervisor, the Board proposes a \$25 for this process, which is ½ the cost of the original registration.
- The proposal establishes a new application processing and initial licensure fee of \$200 to cover the licensure fee for ½ of a renewal period, which is the average initial licensure period for new licensees, and a \$10 fee for a wall certificate.
- A renewal fee increase is proposed from the current \$200 biennial renewal to a \$225 renewal. The proposed renewal fee reflects the cost of the administrative and disciplinary activities of the Board and the allocated costs of the Department.
- An increase in the late renewal fee from \$10 to \$80 is proposed to establish a fee that is 35% of the renewal fee in accordance with the agency's *Principles for Fee Development*.
- An increase in the cost for verification of licensure to another jurisdiction from \$10 to \$25 is proposed to cover the administrative costs of retrieving and copying a file from the microfilm archive, and the mailing costs of the file.
- The current regulation establishes the same fee for a replacement license or wall certificate. Since the cost for producing and sending a duplicate license has been reduced, the proposal establishes a separate fee of \$5 to reflect the actual cost of processing a duplicate license.

- The proposed returned check fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the Department.
- A new fee of \$270 is proposed for reinstatement of a license that has lapsed beyond one full renewal period. This fee is based on the cost of Board review of the reinstatement application plus ½ of the annual renewal fee to cover the average time remaining in a renewal period, plus the penalty fee for late renewal.
- A new fee of \$500 is proposed for reinstatement of a license that has been revoked or suspended following disciplinary action. This fee is based on the cost of the review of the background investigation and reinstatement application, and the cost of holding an informal conference to consider the reinstatement.
- A change is proposed for the payment instruction to clarify that some licensure processes are performed by a vendor, requiring payment of the fee to the vendor and not the Board, as set forth in the application instructions.

#### **g. Statement of reasoning for the regulations.**

##### **Need for Fee Increases**

§ 54.1-113 of the *Code of Virginia* requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed. It is necessary that each board have sufficient revenue to cover its expenditures. It is projected that by the close of the 2000-2002 biennium, the board will have a deficit of \$75,994, or 12%, which will increase to \$114,234 or 16% by the end of the 2002-2004 biennium. Since the fees from licensees no longer generate sufficient funds to pay operating expenses for the Board, a fee increase is essential.

Several factors have contributed to this projected deficit. One is the increase in the Board's regulatory activities over the past 2 years in response to Executive Order and changes in the scope of practice definitions in statute. The size of the Board increased by 2 members in 1996, with an accompanying increase in the size of the Regulatory Committee. Current projections have taken into account increases in staff salaries and fringes due to position reallocation and upcoming pay increases and increases in data processing costs due the implementation of a new database system in the agency. Along with the increased expenditures, there has been a decrease in the projected revenue from certified sex offender treatment providers, which were anticipated to increase by 50 applicants per year, but have actually increased at a rate of approximately one per month since the end of the initial "grandfathering" period in August, 1998.

Because of the increased expenditures and reduced revenues, the Board is now compelled to increase renewal fees and application fees for all categories of licensure according to the *Principles for Fee Development*. As a specially funded agency, renewal fees pay the vast majority of the expenses of Board operations, which include investigation of complaints against licensees and certificate holders, adjudication of disciplinary cases, verification of licensure to other jurisdictions and entities, and communications with licensees and certificate holders about current practice and regulation.

The reasoning for the establishment of a reinstatement fee for individuals whose licenses have been suspended or revoked is that this expense is incurred at the discretion of an individual who has been found guilty of a serious offense, and it would be unfair to have other licensees bear the expense.

#### **h. Alternatives considered.**

**Prior to the publication of a Notice of Intended Regulatory Action to increase fees of the Board, the agency considered three possible solutions to the deficits:**

- 1. General Fund Support.** To permit General Fund support, the *Code of Virginia* would need to be amended to allow such funding as the *Code* restricts board revenue to fees.
- 2. Reduction in department/board operations and staff .** In order to prevent deficit spending, the department would basically need to lay off staff to reduce expenses associated with operations. This would result in delays in applicant processing and licensure renewals, and adjudication of disciplinary cases which would place the public at risk. It is believed that these consequences would not be acceptable to the administration, the General Assembly, or to the general public.
- 3. Increase fees through the promulgation of regulations.** An alternative is to seek the revenue from licensees and applicants to fully fund appropriated expenditures. Costs of services will be paid by clients who use the services of providers, but licensure fees represent a miniscule percentage of the over-all costs of health care. However, failure to fully fund the services through fees will have a detrimental affect on quality.

**It was the recommendation of the Department that the Board adopt the third alternative and seek to increase some of its fees.**

**Prior to consideration of amendments to regulations by the Board, the Department of Health Professions set forth a set of principles by which all boards would be guided in the development of regulations. The “Principles for Fee Development” are intended to provide structure, consistency, and equity for all professionals regulated within the Department. In consideration of various alternatives and issues surrounding the**

**adoption of fees, the Principles served to guide the Board in the development of an appropriate and necessary fee.**

**During the development of a fee proposal, the Board considered the following issues and alternatives:**

### **1. Uniformity in renewal and application fees across professions.**

As is stated in the *Principles*, renewal fees for all occupations regulated by a board should be consistent across occupations unless there is clear evidence to indicate otherwise. Clinical, applied and school psychologists are all licensed for the independent delivery of mental health services. As a result, the relative numbers and kinds of disciplinary problems encountered by these professions is similar, and the cost of administering the disciplinary programs is also similar. Therefore, the Board is proposing the same renewal fee for all three licensure categories. Likewise, the application review for the three licensure categories involves similar processing by staff and review by board members. The Board is proposing that \$75 of the initial licensure fee be attributed to credentials review based on the cost of staff time, reviewer time, mailing and copying costs, data processing and telephone costs for each applicant. Using the same analysis, the board is proposing a \$50 review fee for initial registrations of residency and a \$25 fee for subsequent registrations, based on the approximate cost of reviewing the residency documentation. This is a reduction from the current \$100 registration fee.

### **2. Establishment of initial licensure fees.**

For all professions governed by the Board, the initial licensure fee has historically been considered part of the application fee. This allowed for immediate processing of the license following notification of successful completion of the residency and examination requirements for an applicant. However, the fee was not developed according to any set formula consistent among boards in the agency. Under the new *Principles for Fee Development*, the initial application fees should include the cost of credentials review, an appropriate portion of the license fees, and cost of the wall certificate.

One method of assessing an initial licensure fee is prorating the fee based on the amount of time remaining in the renewal period. The Board is not proposing prorated fees because other boards in the agency have determined that the additional steps involved (assessing fee, notifying applicant, processing check, notifying applicant again check is not mailed until the next fee period begins, etc.) and resulting delays in licensure processing can create more burden and lost income for the applicant than any benefit from the prorated fees. In the proposed regulations, all applicants for all categories of licensure will be assessed a fee to cover ½ of the renewal period, which is the average initial licensure period.

### **3. Establishment of different fees for renewing an expired license versus reinstating a lapsed license.**

Under the current regulations, individuals who have lapsed more than two renewal cycles must pay all back fees and penalty fees to be reinstated. This can result in exorbitant fees for individuals who have been absent from Virginia for many years. In conformance with the *Principles for Fee Development*, the Board is proposing a penalty fee assessed at 35% of the renewal fee for licenses which have lapsed one renewal period, and a reinstatement application requirement for individuals whose licenses have lapsed beyond one renewal period. Since a reinstatement application is required and must be reviewed by the board, the proposed reinstatement fee includes a credential review fee, the late fee, and ½ of the current renewal fee, since the reissue is likely to take place after part of the renewal period has already passed.

### **4. Reinstatement after revocation**

Reinstatement of a license which has been suspended or revoked necessitates an additional cost of a hearing before a panel of the Board. The estimated cost of a hearing, including Board member per diems, staff time and associated expenses is approximately \$500. The Board is proposing that individuals whose licenses have been suspended or revoked incur the cost of the reinstatement hearing.

### **5. Uniformity among boards for setting miscellaneous fees.**

In setting proposed fees for miscellaneous activities of the Board, the *Principles* call for uniformity among boards and regulated entities. The Board is proposing fees for replacement of a duplicate license, duplicate certificate, and processing and collecting on a bad check based on cost estimates provided by the Deputy Director for Finance of the Department that will be standardized among all boards in the agency.

### **Adoption of fee proposal.**

Prior to its adoption of proposed regulations, the Board discussed the *Principles for Fee Development* prepared by staff of the Department and reviewed the policies for applying those *Principles* to fees of the Board. It then considered two proposals prepared by the Finance Office of the Department, all of which follow the *Principles* but increase fees at differing rates.

Given its statutory responsibility to levy fees sufficient to meet expenses of the Board, Proposal #1 was selected because it would correct the deficit with the least increase in renewal fees for licensees, and would retain the biennial renewal schedule with the least disruption to licensees. Therefore, the Board unanimously adopted the fee structure reflected in Proposal #1 and the necessary amendments to its regulations.

### **i. Statement of clarity.**

Prior to the adoption of proposed regulations by the Board, the Deputy Director of the Department of Health Professions along with other members of the staff developed a set of *Principles* by which boards would be guided in the development of fees mandated by the Code of Virginia. The purpose of the *Principles* was to provide guidance for clarity, reasonableness and consistency among boards and among professions regulated within a single board. The clarity and reasonableness of the language that was adopted had the approval of the licensees and citizen members of the Board and the Assistant Attorney General who worked with the Board on regulatory language.

#### **j. Schedule for review of regulation.**

The proposed amendments to these regulations will be reviewed following publication in the Register and the 60-day public comment period. If there are any oral or written comments received, the Board will consider revisions to the proposal prior to adoption of final regulations.

Public Participation Guidelines of the Board (18 VAC 125-10-10 et seq.) require a thorough review of regulations each biennium. In addition, § 54.1-113 of the Code of Virginia requires a review of the fee structure at the close of each biennium. Therefore, the Board will review this regulation in 2001-02 and will recommend amendments as necessary.

Any review which indicates that the Board is accumulating a surplus in funds in excess of 10% of revenue over budget would result in proposed regulations to reduce fees. That action could be expedited under an exemption from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

In addition, the Board receives public comment at each of its meetings and will consider any request for amendments. Petitions for rule-making also receive a response from the Board during the mandatory 180 days in accordance with its Public Participation Guidelines.

#### **k. Anticipated Regulatory Impact**

##### **Projected cost to the state to implement and enforce:**

(i) Fund source:

As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of education program approval, administration of licensing, investigation of complaints, and disciplinary hearings.

(ii) One-time versus ongoing expenditures:

The agency will incur some costs (approximately \$1000) for mailings to the Public Participation Guidelines Mailing List, conducting a public hearing, and sending copies of final regulations to regulated entities.

**Projected cost on localities:**

There are no projected costs to localities.

**Description of entities that are likely to be affected by regulation:**

The entities that are likely to be affected by these regulations would be licensed clinical psychologists, licensed school psychologists and licensed applied psychologists in Virginia and persons who would be applying for licensure.

**Estimate of number of entities to be affected:**

The number of regulated entities (as of June 7, 1999) who would be affected by these regulations is:

|                        |      |
|------------------------|------|
| Clinical Psychologists | 1770 |
| Applied Psychologists  | 106  |
| School Psychologists   | 57   |

The number of applicants for licensure as clinical, applied and school psychologists who will pay an additional \$50 for the application fee is estimated to be 150 per year. Approximately 85% of these applicants who register a residency will realize savings of \$50 to \$75 per residency contract submitted.

The number of individuals who will be affected by an increased late renewal penalty from \$10 to \$80 is estimated to be 15 per year. The number who will request reinstatement of a lapsed license is estimated to be 5; approximately one individual each year will pay an additional \$500 to reinstate a suspended or revoked license.

Approximately 10 individuals each year who request a duplicate license will have a reduction from \$15 to \$5 in the fee the Board charges. It is also estimated that 20 professional counselors and marriage and family therapists will have an increase in the fee from \$10 to \$25 for verifying their Virginia licensure to other jurisdictions or entities.